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In re Reissue Application of
Bagaoisan, Shanahan, Muni, Hammack,
Abrams, Peacock III, and Tremulis
Application No. 08/843,711
Filed: April 16, 1997
For: Intravascular Catheter with Replaceable :
Shaft Section

:
:
: DECISION REFUSING STATUTORY
: UNDER 37 CFR 1.47(a) HEWM
PALO ALTO

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NO. _____ BY 0

This is a decision on the petition under 37 CFR 1.47(a), filed February 2, 1998.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in abandonment of the application. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)" and may include an oath or declaration signed by the previously non-signing inventor.

This application was filed on April 16, 1997 naming Bagaoisan, Shanahan, Muni, Hammack, Abrams, Peacock III, and Tremulis as joint inventors but without an executed oath or Declaration.

On July 29, 1997, a "Notice to File Missing Parts" was mailed which required an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, on February 2, 1998, the instant petition was filed, among other things. The petition was accompanied by the required petition fee and surcharge as well as a petition for a four month extension of time. The last known address of the non-signing inventors set forth in the petition. The petition states that the non-signing inventors were sent a declaration for the above-identified reissue application, but that no response has been received from the three non-signing inventors. A declaration of Nita Miller and copies of letters to the inventors were also provided. Ms. Miller describes here attempts to obtain the signature of the

inventors.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers or proof that the non-signing inventor cannot be reached; (2) an acceptable oath or declaration; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). This petition lacks item (1) above.

As to item (1), an inventor cannot sign the declaration for reissue patent application without having reviewed and understood the application that was filed on April 16, 1997. Applicant must establish that the non-signing inventors were presented with a copy of the application papers (specification, claims and drawings) before any refusal to sign the declaration can be presumed from their failure to respond. See Manual of Patent Examining Procedure, Section 409.03(d).

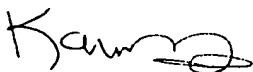
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.



Karin Tyson
Senior Legal Advisor
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Office of the Deputy Assistant Commissioner
for Patent Policy and Projects